

CALIFORNIA BUILDING INDUSTRY ASSOCIATION

Comments Regarding: INF #26: BUILDING STANDARDS ADOPTION REFORM Of the CALIFORNIA PERFORMANCE REVIEW REPORT

Presented by:

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CPR Recommendation INF 26 (A):

The Governor should work with the Legislature to eliminate the California Building Standards Commission and transfer all of its staff, authorities, budget and responsibilities to a new office within the State and Consumer Services Agency or its successor.

CBIA Staff Summary:

The CPR Report has correctly identified a long-standing problem associated with the staffing of the BSC office; the absence of qualified personnel that have the technical expertise necessary to review and critique incoming code-change proposals from the various state agencies. Energy efficiency proposals from the Energy Commission and structural safety proposals from the State Architect and OSHPD are highly technical and should be reviewed by qualified mechanical and structural engineers. The CPR report also correctly points out that, to date, the BSC's Code Advisory Committees have picked up the slack in this area. The Code Advisory Committees are comprised of private-sector and public-sector volunteers who have a strong level of expertise in a variety of code-related areas. The state allows for the reimbursement of travel-related expenses incurred by the members of the Code Advisory Committees.

With regards to the 11-member commission itself, the CPR Report correctly identifies the fact that, in recent years, the Commission has become a highly politicized and ineffective. This extreme level of political imbalance led to the July 2003 BSC recommendation for the state agencies to use the NFPA 5000 Building Code as the national basis for the next edition of the California Building Code. As pointed out in the CPR Report, the NFPA 5000 opposed by over 400 public and private sector entities. In addition, 4 out of 5 state agencies providing input indicated their strong desire to go with the International Building Code, the code that is now being used throughout the rest of the nation.

CBIA Position/Recommendation:

CBIA strongly agrees with the CPR Report's assessment of the problem plaguing both the BSC and its staff identified above. However, without knowing much more about the "new and consolidated office" that would handle building codes within the State and Consumer Services Agency, it is difficult for industry to support or oppose such a proposal at this time. The political polarization that existed on the BSC during 2002 and 2003 resulted from the appointment of commissioners who were clearly focused on a single issue. Eliminating the Building Standards Commission and placing its authority under one or two appointed individuals won't necessarily fix this problem, and it could conceivably exacerbate it.

Industry strongly supported the creation of the BSC through its sponsorship of SB 331 in 1979. For two decades, the appointments to the commission created a balanced and fair body through which industry has been able to obtain a fair and impartial review of state agency code-change proposals. It wasn't until recently, in 2002 and 2003 that this changed. While we look forward to working with the Administration in its effort to make government more efficient, without having more detail on the new office that would handle building standards, CBIA is unable to support or oppose the outright elimination of the Commission at this time.

CBIA does strongly support the continued use of public and private sector volunteers as members of the Code Advisory Committees. However, the state may wish to limit the reimbursement of the travel expenses incurred by the Committee members, granting such assistance only under special circumstances. The Code Advisory Committee members consider it an honor to serve on these committees and most have the means that allows their attendance without reimbursement. Reimbursement of expenses should only be granted for those special cases whose attendance would otherwise be prevented in absence of such financial assistance.

CBIA also strongly supports the staffing of the Commission or its predecessor with an appropriate level of technically qualified individuals. While the Administration may wish to consider an increased role for the Code Advisory Committees, the full-time commission staff should have the technical expertise necessary to adequately review and critique incoming submittals from the state agencies.

CPR Recommendation INF 26 (B):

The Governor should work with the Legislature to transfer the code development sections of the State Fire Marshal, the Division of the State Architect, the Department of Housing and Community Development and the Office of Statewide Health Planning and Development, or their successors, to the office established in Recommendation A.

CBIA Staff Summary:

The CPR correctly points out that there is limited coordination among the code-proposing state agencies. In addition, there exists time-consuming and unnecessary redundancy in the current administrative process that governs building code development and adoption by the state agencies and the Building Standards Commission.

CBIA Position/Recommendation:

CBIA will strongly support efforts by the Administration to improve the coordination of code-related activities of the state agencies and the Building Standards Commission. It should be pointed out however, that many, if not all of the state agency staff that presently work on code development also have other job responsibilities within that individual agency. While consolidation of these employees within a single office would certainly enhance the coordination of state code development and reduce administrative redundancy, the issue of existing versus future job responsibilities will have to be addressed. One possible solution could be an expansion of the exiting duties of the BSC Coordinating Council in order to insure **ongoing coordination** of the state agency activities as well as having that body serve as the facilitator in the choice of national model codes to be used in California every three years.

CPR Recommendation INF 26 (C):

The governor should work with the Legislature to establish objective criteria and a process for selecting a model code for building standards in California.

CBIA Staff Summary:

The CPR report correctly identifies the fact that the BSC Commissioners did not seem to be using any established criteria in their July, 2003 recommendation of national model codes. However, the state agencies had indeed developed a broad set of objective criteria and used it in the preparation of their recommendations to the BSC. The BSC simply chose to ignore those recommendations and the basis on which they were made.

CBIA Position/Recommendation:

Both industry and the public sector participants supported the objective criteria that had been used by HCD, DSA, OSHPD and the CEC. This criterion was largely put together several years earlier by a public- and private-sector coalition (The Code 2000 Partnership) established in 1997 by then-Secretary of State and Consumer Services Agency, Joanne Kozberg. As such, CBIA feels there is no need to approach the Legislature at this point. CBIA supports the use of the objective criteria established by this group, recently used by the four state agencies cited above and more recently ignored by the Building Standards Commission.

CPR Recommendation INF 26 (D):

The State and Consumer Services Agency, or its successor, should commission a study to determine the economic and industry impacts of selecting the National Fire Protection Association code known as the NFPA 5000, to be completed by June 2005. The study should make recommendations concerning the continued selection of the NFPA 5000, and whether or not the selection process should be reopened.

CBIA Staff Summary:

The CPR background summary on this issue correctly points out that 48 other states have already made the decision to use another national building code as the basis for their individual state and local building codes. As pointed out in the CPR report, California is the only state in the nation that has chosen to go with the NFPA 5000 building Code, even though public testimony was received by over 400 different public and private-sector entities opposing the use of that code and supporting the use of the code being used by the rest of the nation. In addition, four of the five state agencies providing analysis of the two competing codes advised the BSC against using the NFPA 5000 and instead strongly suggested the use of the code being used in the rest of the nation.

CBIA Position/Recommendation:

The California Building Industry Association (CBIA) strongly supports the CPR recommendation to revisit the "recommendation" by the Building Standards Commission (BSC) for the various state agencies to use the NFPA 5000 Building Code as the basis for the next edition of the California Building Code. However, CBIA feels that a "six-month study" would be very time consuming and unnecessary since an extensive administrative file already exists in which the two documents are thoroughly analyzed and compared with each other. This issue

could be administratively “revisited” on a much quicker time-table by using the BSC Coordinating Council (as established under H&S Code 18926). The Coordinating Council could conduct public meetings in November and December of 2004 and could forward its recommendation to the Building Standards Commission in January of 2005. This puts in place a time schedule that could be completed in the first quarter of 2005, (rather than the third or fourth quarter as suggested by the CPR Report).